



Service Agreement for Grappa Wireless Internet Customers

This Service Agreement ("Agreement") is made and entered into between Grappa Wireless, Inc., ("Grappa"), and _____, ("Customer") for Broadband Services procured in the United States of America. This Agreement is effective from _____, _____ to _____, _____. Customer agrees and understands that Grappa is the exclusive, authorized Service Provider for the Customer.

Recitals

A. Grappa shall provide to Customer for the Term of this Agreement, as defined below, the Wireless Internet Services (the "Services") identified and agreed to by and between the parties as set forth on the Grappa Wireless Order for Services document, which is attached hereto as Exhibit 1 and incorporated herein by reference.

B. In providing such Services to Customer, Grappa shall license to Customer for Customer's use certain equipment (the "Equipment"), necessary for the provision of Services by Grappa to the Customer, which is identified and agreed to by and between the parties as set forth on the Grappa Equipment document, which is attached hereto as Exhibit 2 and incorporated herein by reference;

C. The Services and Equipment shall be supplied and used at Customer's location at _____ (the "Location") and no other location without the express, advance, written approval of Grappa.

TERMS AND CONDITIONS:

1. SERVICES.

Grappa shall provide to Customer and Customer engages Grappa to provide the Services for the period _____, 200__ to and through _____, 200__ (the "Term").

2. CUSTOMER REPRESENTATIVE.

The following individual: _____, title: _____ shall represent the Customer during the performance of this Agreement with respect to the Services. Customer may substitute another individual upon providing ten (10) days advance written notice to Grappa, signed by the Customer.

3. CHARGES AND PAYMENT.

Customer agrees to pay Grappa for the Services the amounts and in the manner set forth in Exhibit 3 – Grappa Service Charges document, attached hereto and incorporated by reference. In accordance with Exhibit 3, any and all amounts not paid when due shall incur and bear an interest charge of 1.5% per month from the date it was due until paid in full. Customer acknowledges and agrees that failure to make any payment when due may result in disconnection on termination of the Services by Grappa, at Grappa's sole determination and discretion. Once disconnected or terminated, Service will not be reinstated by Grappa until Customer's account is fully current and all amounts due are paid. To reinstate Services, a reconnect fee of \$69 must be paid, and at the option of Grappa, a deposit may be required for no less than one month's Services. Customer shall further be responsible for any and all bank charges, fees or expenses associated with any stopped, returned or insufficient funds check, credit card chargeback, or other chargeback. Deposits may be required in Grappa's sole discretion.

Customer shall reimburse and pay to Grappa any and all amounts constituting costs, expenses, or fees, including but not limited to attorneys' fees, incurred by Grappa in collecting any amounts or recovering anything of value, including but not limited to Equipment, from Customer under the terms of this Agreement.

If customer moves to a new location within the term of the contract and is within the Grappa coverage area, a move fee of \$250 will be charged to move the equipment and re-install at new location.

4. GRAPPA-PROVIDED EQUIPMENT.

Grappa agrees to provide and hereby licenses to Customer the Equipment that is necessary for the provision of the Services by Grappa to Customer. Customer has no ownership interest in the Equipment, and Customer understands that Grappa owns the Equipment. Customer shall use the Equipment in accordance with law. Customer acknowledges that use of the Equipment in a manner not intended by the manufacturer may result in harm to or destruction of the Equipment and an interruption of Services.

Customer hereby agrees that the Grappa Equipment listed in exhibit 2 will remain free of damage, neglect, or tampering. Upon the expiration of the Term of this Agreement, or the termination of this Agreement by one of the parties pursuant to the provisions contained herein, Customer shall return all Equipment to Grappa in good working order and repair beyond ordinary wear and tear and Force Majeure. In the event the Equipment is not in good working order and repair, Customer shall either obtain like-kind alternate equipment for Grappa or pay to Grappa the replacement cost of the Equipment that is not in good working order and repair. If customer violates the Grappa Wireless Terms of Service, Grappa Wireless has the right to remove and repossess Grappa equipment upon written notice.

Customer hereby grants Grappa any and all rights of access and egress to Customer's premises necessary for Grappa to install, repair, maintain, remove, repossess, improve, upgrade and/or replace the Equipment on Customer's premises.

5. DISPUTES.

Any disputes that arise between the parties with respect to the interpretation and/or performance of this Agreement shall be submitted to mediation. If a mutually satisfactory solution is not achieved through mediation, either party may submit the dispute to binding arbitration in accordance with the New Mexico Arbitration Act, to be determined and resolved by said act under its commercial rules and procedures in effect at the time of submission and the parties hereby agree to share equally in the costs of said arbitration.

The final arbitration decision shall be enforceable through the courts of the state of New Mexico. In the event that this arbitration provision is held unenforceable by court of competent jurisdiction, then this contract shall be as binding and enforceable as if this section were not a part thereof and each party will be deemed to have waived trial by jury.

6. TAXES.

Each party shall be responsible for any taxes imposed upon them by law, including, but not limited to income taxes and business personal property taxes; provided, however, that Customer shall pay to Grappa any New Mexico gross receipts taxes or current or future telecommunications based or related taxes which may be incurred or imposed on Grappa by virtue of any goods or services provided by Grappa to Customer pursuant to this Agreement.

7. TERM.

The term of this Agreement shall commence on the latest signature date, for the term noted, on the Service Application attached to this agreement. Unless terminated sooner, as provided in Section 8, the parties may renew this Agreement for successive terms of twelve months, subject to changes in rates and charges.

8. TERMINATION OF AGREEMENT.

8.1 By Customer. Customer may terminate this Agreement at any time prior to expiration of its term by providing Grappa written notice thirty (30) days prior to the termination date. Customer will be responsible for an early termination fee equal to one-half (1/2) of the value of the remaining contract. If Customer fails to provide the required prior written notice, Customer will be responsible for the full value of the remaining contract.

8.2 By Grappa. Grappa may terminate this Agreement at any time, without liability, if Customer (a) breaches any provision of this Agreement, including but not limited to failing to pay any charges for services or equipment, (b) interferes with or impairs Grappa's operations or efficiency; (c) uses Grappa service or equipment in a manner that violates any rule, regulation or law; or (d) uses Grappa service or equipment in a manner that violates Grappa's Acceptable Use Policy. Such termination may occur with or without notice. Grappa may, but is not obligated to, reactivate services to Customer if Customer cures the breach, interference, or impairment.

9. LIMITATION OF LIABILITY.

IN NO EVENT SHALL GRAPPA, GRAPPA AGENTS, AND/OR SUPPLIERS BE LIABLE TO THE CUSTOMER FOR ANY INCIDENTAL, INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND INCLUDING BUT NOT LIMITED TO ANY USAGE LOSS, BUSINESS LOSS, DATA LOSS OR PROFIT LOSS, EVEN IF THEY HAVE BEEN INFORMED OF THE POSSIBILITY THEREOF, OR ANY COSTS OR EXPENSES FOR THE PROCUREMENT OF SUBSTITUTE EQUIPMENT OR SERVICES

10. GENERAL.

- 10.1.1 Force Majeure.** No party shall be liable for any delay or failure in performance whatsoever due to Acts of God, earthquakes, shortages of supplies, lightning, wind, transportation difficulties, labor disputes, riots, war, fire, epidemics, and similar occurrences.
- 10.1.2 Choice of Law.** This agreement shall be interpreted and construed, and legal relations created shall be determined, in accordance with the laws of the State of New Mexico, without regard to any conflict of law principles.
- 10.1.3 Amendments.** Any changes or amendments to this Agreement shall only be effective and binding if in writing and signed by the parties hereto.
- 10.1.4 Notices.** Notices given by a party under this Agreement must be in writing and must be (i) delivered in person, (ii) mailed, first class, postage prepaid or by air courier, or (iii) sent via facsimile, in each case to the other party at the address set forth on the signature page of this Agreement or such other notice address as such party may from time to time specify by notice to the other, and are deemed received upon delivery in person or three (3) days after posting or faxing.
- 10.1.5 No Waiver.** No waiver of rights under this Agreement by either party shall constitute a subsequent waiver of that right or any other right under this Agreement.
- 10.1.6 Assignment.** Customer shall not assign or otherwise transfer either this Agreement or any rights under this Agreement without the prior written consent of Grappa. Notwithstanding the foregoing, this Agreement may be transferred or otherwise assigned to any company or other entity, which acquires all or substantially all of the assets of Customer. This Agreement shall bind and inure to the benefit of the successors and permitted assigns of the parties.
- 10.1.7 Severability.** In the event any of the terms of this Agreement become or are declared illegal by any court of competent jurisdiction, such term(s) shall be null and void and shall be deemed deleted from this Agreement. All remaining terms of this Agreement shall remain in full force and effect. Notwithstanding the foregoing, if this paragraph becomes applicable and, as a result, the value of this Agreement is substantially impaired for either party, then the affected party may terminate this Agreement by notice to the other.
- 10.1.8 Service Agreement.** This agreement constitutes a service agreement and not a Product warranty. Grappa makes no warranty to Customer, either express or implied, with respect to any Services purchased by Customer, except for the manufacturer's standard limited warranty as set forth in the information, which accompanies the Product. GRAPPA SPECIFICALLY DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, OR ARISING FROM A COURSE OF DEALING, USAGE OR TRADE PRACTICE.
- 10.1.9 Entire Agreement.** This Agreement is the complete agreement between the parties hereto concerning the subject matter of this Agreement and replaces any contemporaneous or prior oral or written communications between the parties. There are no conditions, understandings, agreements, representations, or warranties, express or implied, which are not specified herein.

10.1.10 Additional Provisions. The parties agree to those additional provisions attached in the Exhibits, hereto. In the event of a conflict between any of the provisions in the Exhibits and those elsewhere in this Agreement, the provisions in the Exhibits shall control.

EXECUTION.

If a party returns this Agreement by facsimile machine, the signing party intends the copy of this authorized signature printed by the receiving facsimile machine to be its original signature. The parties hereby execute and authorize this Agreement as of the latest date shown below:

GRAPPA WIRELESS:

CUSTOMER:

Signature

Signature

Name Printed or Typed / Title

Name Printed or Typed / Title

Date

Date

Address for Notices:

Address for Notices:

Exhibit 2: Grappa-Owned Equipment Located at the Customer Site

Includes but is not limited to the following

1. Point-to-Point Wireless Equipment
 - a. Radio(s)
 - b. Standard Mounting Bracket
 - c. Reflector Dish
 - d. Lightning/Surge Suppressor
 - e. In-line Power Supply
 - f. Mast
 - g. Jack, cable, patch cables

and/or

2. Grappa Vineyard Equipment
 - a. Grappa Vineyard Indoor Radio
 - b. Grappa Vineyard Radio Power Supply
 - c. Patch Cable

Exhibit 3: Grappa Wireless Service Charges

- Invoices for service are due no later than the first day of the month, or the first day of the quarter for quarterly invoicing customers
- Any late payments for invoices will incur a charge of 1.5% per month from the date it was due until it is paid in full
- If a payment is rejected for any reason, Customer will be charged a \$25 fee and Customer will be responsible for any bank or credit card charges incurred by Grappa Wireless
- If a payment is not received within 15 days of the invoice due date, Grappa Wireless reserves the right to disconnect service to the Customer without notice
- Installation fees are not refundable after the first 30 days of service